

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**BENJAMIN E. JORDAN, #1568326,  
Petitioner,**

**v.**

**RICK THALER, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Div.,  
Respondent.**

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**3:09-CV-1521-M**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the District Court in implementation thereof, this case has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge, as evidenced by his signature thereto, are as follows:

**FINDINGS AND CONCLUSIONS:**

This is a *pro se* petition for habeas corpus relief submitted by a state prisoner on the form for filing a *state* habeas corpus application pursuant to art. 11.07, Texas Code of Criminal Procedure.<sup>1</sup> In his response filed on September 16, 2009, Petitioner concedes that he sent the art. 11.07 application to this court in error, and that he intended to file it with the Dallas County District Clerk. However, since the application is now before this court, he requests that he be granted relief on his time-served claim.

This action should be administratively closed in light of Petitioner's September 16, 2009 response indicating that he sent his pleadings to this court in error.

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<sup>1</sup> Since the petition was mailed to the District Court Clerk, 1100 Commerce Street Room 1452, Dallas, TX 75242, the Clerk was obligated to file the same.

RECOMMENDATION:

For the foregoing reasons, it is recommended that this habeas action be administratively closed.

The Clerk will transmit a copy of this recommendation and of the art. 11.07 application to Petitioner.

Signed this 22<sup>nd</sup> day of September, 2009.

  
WM. F. SANDERSON, JR.  
UNITED STATES MAGISTRATE JUDGE

NOTICE

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 10 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error.